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Letter dated 16 May 2008 from the Secretary-General to the President of the Security Council

I have the honour to refer to my report of 17 January 2008 on the United Nations Integrated Mission in Timor-Leste (UNMIT) (S/2008/26). In paragraph 12 of its resolution 1802 (2008), the Security Council welcomed my intention to send an expert mission to UNMIT in the first quarter of 2008 to conduct a thorough assessment of the requirements of the national police as well as possible adjustments needed to UNMIT police skill sets, and requested me to inform the Council of the finding of the expert mission.

I have received the mission report from the Team Leader and United Nations Police Adviser, Andrew Hughes. I fully support its recommendations and Mr. Hughes will stand ready to brief members of the Council on the content of the report, if requested to do so, as a follow-up to his 23 April 2008 presentation.

In the meantime, I have the honour to attach the mission report (see annex) and should be grateful if you would bring it to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex

Report of the expert mission to Timor-Leste on policing, 17 to 27 March 2008

I. Introduction

1. In his report dated 17 January 2008 on the United Nations Integrated Mission in Timor-Leste (UNMIT) (S/2008/26), the Secretary-General informed the Security Council of his intention to send an expert mission in the first quarter of 2008 to Timor-Leste in order to conduct a thorough assessment of the requirements of the national police of Timor-Leste as well as possible adjustments needed to UNMIT police skill sets. The present report is submitted pursuant to paragraph 12 of Council resolution 1802 (2008), by which the Council welcomed the Secretary-General's intention and asked to be informed of the findings of the expert mission. The report considers areas of the broader rule of law and the security sector, to the extent to which they are directly related to policing in Timor-Leste. It also takes into consideration the report dated 6 December 2007 of the Security Council mission to Timor-Leste in November 2007 (S/2007/711).

2. The expert mission was led by Andrew Hughes, United Nations Police Adviser, Department of Peacekeeping Operations, and comprised other representatives of the Department of Peacekeeping Operations, the national police, the Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme (UNDP), the United Nations Population Fund, the International Center for Transitional Justice and UNMIT. During its visit to Timor-Leste from 17 to 27 March 2008, the mission met with more than 60 interlocutors, including the Interim President, the Interim President of the National Parliament, the President of the Court of Appeal, the Prime Minister, the Prosecutor-General, Cabinet ministers, the Secretary of State for Security, members of Parliament, leaders of political parties, civil society, the Catholic Church of Timor-Leste, senior representatives of the national police, the General Commander Designate of the national police, the Commander of the armed forces of Timor-Leste (Falintil-Forças de Defesa de Timor-Leste, F-FDTL), the diplomatic community, UNMIT senior leadership and police personnel and the Commander of the international security forces. The mission also consulted with representatives of the International Organization for Migration, the United Nations Children's Fund and the United Nations Development Fund for Women. In addition to meetings in Dili, the mission visited the Bobonaro district, including the border region with Indonesia at Batugade, to meet with local national police commanders and members of UNMIT. The mission also visited nine national police establishments and facilities.

II. Key concerns and issues

A. General considerations

3. Since the events of April/May 2006 (see S/2006/628 and S/2006/251 and Corr.1), the Government and people of Timor-Leste have demonstrated commitment to restore stability and normalcy in the country. The successful holding of elections in 2007, the formation of a democratically elected Government and Parliament, and

the functioning of the Parliament, Government and other State institutions are all testimony to progress achieved in this regard.

4. The overall security situation in the country has improved, as reflected in the steady decrease in criminal acts committed in the past year. According to UNMIT police, there were a total of 344 allegations of crimes committed against persons or property in February 2007, compared to 165 in February 2008. Several interlocutors also stated to the mission that there had been a general perceived improvement of the security situation in the past year. There has also been an observable increase in the operational capabilities and activities of the national police during this period, with support from UNMIT, as part of its reconstitution programme.

5. However, the attacks on the President and the Prime Minister of Timor-Leste on 11 February 2008 clearly illustrate the fragility of the security situation. Nevertheless, the response of the State institutions is also indicative of their growing resilience as they did not suffer the collapse that had occurred during the crisis of 2006. It should be noted that the rebuilding of the national police as an impartial, professional and reliable policing service, with sustainable systems and processes, is a long-term undertaking. Furthermore, some interlocutors expressed their concerns to the mission regarding the commitment of some elements of the F-FDTL to the rule of law, in particular in relation to the irregular correctional procedures applied to four members of the forces concerning criminal acts that they had committed during the 2006 crisis. The situation is further compounded by the fact that legal and administrative mechanisms to protect the national police from the politicization that contributed to its collapse in 2006 are not yet in place. In addition, an estimated 100,000 persons remain internally displaced, a continued humanitarian issue and security risk.

6. In this perspective, it is important to assess the current situation in relation to policing in Timor-Leste, in particular regarding the requirements of the national police and the possible adjustments needed to UNMIT police skill sets, within the broader rule of law and security sector reform contexts. This is to be done, in particular, by taking into consideration resolution 1802 (2008), including the emphasis by the Council on the need to implement fully the Arrangement on the Restoration and Maintenance of Public Security in Timor-Leste and Assistance to the Reform, Restructuring and Rebuilding of the National Police of Timor-Leste and the Ministry of the Interior (hereafter, the Policing Arrangement), concluded between the Government of Timor-Leste and UNMIT on 1 December 2006.

B. National police of Timor-Leste

General observations

7. Under section 147 of the Constitution of Timor-Leste, the national police has a responsibility to defend the democratic legality of the country, guarantee the internal security of the citizens, be strictly non-partisan and prevent crime, with due respect for human rights. In accordance with article 12 of Decree No. 3/2004 on the Organic Structure of the Ministry of the Interior it has, inter alia, the responsibility to guarantee the maintenance of public order, security and peace, prevent and combat crime and enforce border surveillance by controlling the movement of people and goods. The national police is structured in accordance with the administrative divisions of the country and comprises: (a) a General Command, which has

responsibilities over operations and administration as well as over the Professional Ethics Office; (b) the Superior Police Council, which has, inter alia, an advisory mandate concerning disciplinary matters and promotions; and (c) district and local commands. A national police academy is also in place, under the direct auspices of the Secretary of State for Security. The Government is currently undertaking efforts to draft a national security policy, which would serve as the basis for a redefinition of the current policing model and amendment of the required legislative framework (including Decree/Law No. 8/2004 on the Organic Law of the National Police of Timor-Leste), and which would be followed by a review of the national police structure and rank system, as well as the career development system, including promotion and pension policies.

8. As of 27 March 2008, a total of 3,108 national police officers were registered, including 494 in Dili, out of an authorized strength of approximately 3,200. This corresponds to a ratio of over 1 national police officer per 300 inhabitants; policing best practices indicate that this is most likely sufficient for the needs of the country.

9. Almost two years after the April/May 2006 crisis, substantive progress has been made in the reconstitution of the national police. The process of registration of national police officers was completed by 1 December 2007 with support from UNMIT. The national police was also able to provide substantive security assistance during the electoral process of 2007 and its operational capabilities have substantively increased in the past months, with the provision, albeit limited, of equipment and support from UNMIT police. Several interlocutors have also mentioned to the expert mission that the Timorese population's confidence in the institution has increased in the past months. Moreover, the performance of the national police officers and leadership in relation to the events of 11 February is a tribute to the increased professionalism of the institution.

10. However, the national police continues to face important challenges, both in terms of capacity and integrity, and is not in a position to fully implement its mandated responsibilities. The leadership within the institution requires further assistance and training, including for gender and human rights. Some interlocutors expressed concerns about past political interference in the work of the national police.

11. With a total of 581 (19 per cent) female officers in the service, the national police has a higher proportion of female personnel than in most countries. This current level, however, also represents a sharp decrease in the intake of female personnel, compared to that at the inception of the force in 2002. Several interlocutors have reported to the expert mission that this is due to limited opportunities for career advancement for female officers; out of a total of 24 officers employed at the rank of Inspector, only 1 is a woman. As such, many women have left the service and sought employment elsewhere.

Institutional capacity

12. The investigative and information-gathering and analysis capacities of the institution remain severely limited due to a lack of qualified personnel, training, including in relation to the applicable law, and logistical support. Forensic support is limited and relies primarily on support provided by six national police officers, the assistance from UNMIT and two Cuban pathologists based at the national hospital in Dili. This situation is of particular concern, given the high incidence of gender-

based violence crimes in Timor-Leste. There is also no central database to record levels and patterns of crime, disaggregate statistics by age or gender or to identify potential cases of human trafficking, and the information technology infrastructure is severely limited. There is an existing criminal database managed by the Office of the Prosecutor-General; however, UNMIT and national police personnel cannot easily access the information therein. National statistics on crimes against vulnerable groups, including children, are very limited, and it appears that agencies working in the area of gender-based violence are using different methodologies for collecting their respective data.

13. As a result, the quality of investigative reports submitted to the prosecutorial offices, in particular in respect of gender-based violence cases, is generally weak and seriously impedes the administration of justice. There is also a clear lack of specialized skills within the national police. Similarly, there is no national crime reduction strategy in place and this limits the capacity of the institution to implement its crime prevention mandate. The Marine Unit currently has no operational vessels and there is a need to increase the capabilities and capacity of the Unit to respond to maritime crimes and to enforce maritime laws.

14. Transnational police cooperation through the International Criminal Police Organization (INTERPOL) has not proven to be very effective. The National Central Bureau, the designated focal point for INTERPOL in Timor-Leste and the main communication channel with the organization and other member States for preventing and combating international crime, is located within the Office of the Prosecutor-General. This is unusual to the extent that the Head of the National Central Bureau of a member State of INTERPOL is normally one of the highest-ranking law enforcement officials in the country. According to several interlocutors, this arrangement has severely hampered the capacity of the national police to combat international crime, including trafficking in human beings and drugs by, inter alia, limiting access to the INTERPOL secure police communications network. On a related note, the national police's ability to enforce border surveillance is limited, including by the absence of a maritime capacity.

15. The national police's capacity to control incidents of public disorder through its rapid intervention capacity is also severely hampered by lack of training, personnel and equipment. A total of 190 officers are deployed with the rapid intervention capacity in two locations, with limited operational capacities. Despite these limitations, the rapid intervention capacity performed well in containing acts of violence in Dili in August and September 2007. Acts of civil unrest remain a major threat to security and stability in the country, in particular in urban areas. Nevertheless, the ability overall of the national police to respond to such acts is highly dependent on the presence of UNMIT police and international security forces.

16. From an administrative perspective, the national police has a total budget of $18.2 million for the year 2008. This is a sizeable increase from the previous year's allocation. A financial unit was also recently established and considerable savings were made by preventing the fraudulent use of funds. While these are positive developments, the capital expenses required for the national police, including for the procurement of transport and communication equipment and for the refurbishment of police facilities, clearly exceed the allocation for 2008. Moreover, budgetary projections for the next four years have not taken into consideration the likely

reduction in the presence of UNMIT and the international security forces and the parallel assumption of greater responsibilities by the national police. Overall, the expert mission evaluates that donor support will continue to be required, in particular in respect of major capital expenditures.

17. There have been serious problems in the past with the actual disbursement of funds allocated under the budget. This is due primarily to overly centralized control, in combination with a lack of delegation of financial authority to the national police General Command as well as district and local commands. This has resulted in some negative consequences, including that funds required for operational costs, such as for transport and communication, have not been made available on time. However, important work has been undertaken by the Inspection Cabinet, which has served to curb the previously prevalent misuse of funds.

18. Existing administrative systems, including for personnel, budget, finance, procurement, assets and file management would also require considerable improvement, in particular in respect of their implementation. For example, no criteria seem to have been established for promotions or the staffing levels of the national police or for the attribution of personnel per unit or district. This issue is currently being addressed by the authorities of Timor-Leste with international assistance. Also, systems for the management and maintenance of such assets as vehicles or facilities are not adequately implemented, and this has a negative impact on the performance of the national police.

Institutional integrity

19. There is information that suggests an increase in the population's confidence in the institution in the recent period. However, allegations of corruption and impunity for possible acts of misconduct, including human rights violations, against some national police personnel may undermine the professionalism and integrity of the institution. The Professional Ethics Office, an internal disciplinary mechanism dealing with police misconduct, has throughout its existence been hampered by a lack of resources, inadequate investigative expertise and some instances in the past of political interference. Furthermore, several female officers have stated to the expert mission that reported cases of sexual harassment in the service have not been adequately addressed. This has resulted in lack of accountability for many acts of misconduct committed by national police officers. In 2005, district offices of the Professional Ethics Office were established, improving the flow of investigations; however, conflicts of interest have arisen when those officers have been assigned to investigate their colleagues and superiors. Furthermore, allegations lodged with district offices often have not been referred to the national level, as required.

20. In this regard, the Office of the Provedor for Human Rights and Justice, members of Parliament, non-governmental organizations and UNMIT have reported allegations of cruel, inhuman and degrading treatment or punishment of persons during their arrest, in detention or during interrogation, including in the course of the past year and up to the present time. In some cases, victims have required medical treatment. No cases of torture have been documented. Arrests without warrant, though permitted under certain circumstances, appear to have been unlawful in many instances. In addition, there have been several reports of excessive firearm use by officers of the national police. In December 2007, a national police task force was established in Dili to respond to situations that required more than a

normal patrol response but less than a formed police response. UNMIT has monitored the task force since its inception and has documented a marked increase of allegations of excessive use of force and ill-treatment during arrest, unlawful house searches and abusive and generally intimidating behaviour towards the population.

21. Furthermore, some interlocutors have raised concerns about alleged human rights abuses of national police and F-FDTL members committed during security operations undertaken during the states of exception, and that this undermined the rule of law in the country. UNMIT observed that the number of alleged human rights violations by the national police, in particular the task force, doubled during the first month of the state of siege. While the Government and the armed forces command were responsive when UNMIT raised concerns regarding these incidents, their occurrence emphasizes the need to strengthen institutional policies and procedures regarding the use of force, in line with national and international standards and a need for human rights training.

Cooperation with the Falintil-Forças de Defesa de Timor-Leste

22. Another issue of relevance is the recent establishment on 17 February of a joint command between the national police and F-FDTL, under the direct authority of the Government and without the involvement of UNMIT or the international security forces, for the execution of security operations against a specific armed group following the events of 11 February 2008. This has reportedly created greater trust and mutual confidence between members of these institutions and may have helped to heal some of the differences resulting from the April/May 2006 events. While the arrangements have provisionally blurred lines between the functions and reporting chains of the police and military, the national authorities have recognized their temporary nature and the necessity to revert to regular arrangements following the lifting of the state of siege.

Reconstitution of the national police and handover of responsibilities

23. Various Timorese officials indicated a desire to clarify and accelerate the handover of responsibility and overall authority for policing from UNMIT police to the national police. However, the expert mission is concerned that Government planning, especially budgetary processes, does not seem to take into account the increased responsibilities and the possible drawdown in UNMIT police that would accompany such a handover. A visit to three police posts in Dili, for which the national police have assumed responsibility of operational command, revealed that those posts were inadequately prepared for the transition, including in respect of basic logistical support, raising many questions about possible future larger-scale handovers.

24. Given the time-limited mandate of UNMIT, the Government is actively establishing relationships with bilateral donors who will be able to provide a longer-term commitment. While this is understandable, the expert mission is concerned that there is as of yet no real mechanism to coordinate current assistance and the transition from assistance by the United Nations to bilateral assistance.

C. United Nations Integrated Mission in Timor-Leste police

General observations

25. In paragraph 4 (c) of its resolution 1704 (2006), the Security Council decided that UNMIT police had the primary responsibility to ensure the restoration and maintenance of public security in Timor-Leste through the provision of support to the Timorese national police, which included interim law enforcement and public security until the national police was reconstituted, and to assist with the further training, institutional development and strengthening of the national police as well as the Ministry of the Interior. The Policing Arrangement was adopted in order to facilitate the implementation of the mandate and further provides that the Police Commissioner of UNMIT should be considered as the interim national police General Commander. UNMIT has yet to provide assistance for reforming and strengthening the Secretariat of State for Security (formerly, the Ministry of the Interior) in accordance with the Arrangement. Notwithstanding the temporary nature of the UNMIT mandate, it is assumed that the goal of the UNMIT police presence will have been reached when the national police has been reconstituted and is able to guarantee the internal security of Timor-Leste without substantive security support from the United Nations, including the likelihood that bilateral partners will progressively assume greater responsibility for long-term capacity-building. Clear benchmarks and timelines have yet to be agreed in this regard between the Government of Timor-Leste and the United Nations. Representatives of the Government of Timor-Leste also expressed their concerns about implementation of the Policing Arrangement in the absence of such benchmarks and timelines.

26. As of 27 March 2008, a total of 1,529 United Nations police officers (75 women, including 3 contingent commanders), from 40 police-contributing countries, were deployed in all districts of Timor-Leste. This is out of an authorized strength of 1,608 personnel, including four formed police units. It should also be noted that it took almost one year from the adoption of resolution 1802 (2008) to reach 80 per cent of the authorized strength and that this factor, in conjunction with the need for securing the elections in 2007, had a significant impact on UNMIT police efforts in all areas. Furthermore, the major challenge in the implementation of the mandate concerning UNMIT police lies in the ambitious nature of its work, in particular in view of the fact that it has to fulfil two distinct mandated tasks: interim law enforcement and support for the reform, restructuring and rebuilding of the national police.

Interim law enforcement responsibilities

27. Taking into consideration prevailing circumstances, UNMIT police has generally performed very well in the delivery of its interim law enforcement responsibilities. It played a central role in the security of the electoral process in 2007, and the steady decrease in crime throughout Timor-Leste is due to a large extent to its presence and the actions it undertook to maintain law and order in cooperation with the national police. This was done with support from the international security forces, as required.

28. However, UNMIT police officers are not deployed in most subdistricts and the performance of law enforcement functions in those regions remains an exclusive function of the national police. In general, UNMIT police are not deployed in places

where they would be co-located with national police personnel. Furthermore, the operational effectiveness of UNMIT police, in respect of both interim law enforcement and capacity-building activities, is impeded by the limited availability of qualified translators or interpreters and an often partial understanding of the applicable law and human rights standards, including in relation to juvenile justice. The latter point is of particular importance with regard to criminal procedure legislation since this is a critical issue for the performance of law enforcement functions, including arrest, detention, searches and the conduct of investigations. In addition, there is a critical lack of specialists for the investigation of major crimes, including homicides, gender-based violence crimes, arson, trafficking and corruption. For example, according to UNMIT, only three United Nations police officers with experience in the investigation of murders were deployed to Timor-Leste in March 2008. Several interlocutors, including members of political parties, the Prosecutor-General and representatives of the Church, also mentioned to the expert mission that UNMIT police personnel had a limited understanding of the culture and history of Timor-Leste and that this should be addressed in the induction training.

Support for the reform, restructuring and rebuilding of the national police

General

29. In the application of its mandate and the Policing Arrangement, UNMIT police also have a major responsibility to support the reform, restructuring and rebuilding of the national police. As a first step in the process, in January 2007 UNMIT police completed a detailed assessment of the technical and administrative levels of the national police, including internal accountability mechanisms. This was followed by the preparation of a plan on reform, restructuring and rebuilding, the preliminary draft of which was submitted to Timorese authorities in May 2007. Various drafts of the document, which is to form the basis for building the capacity of the national police, have been exchanged between UNMIT police and Timorese authorities since that date and it has yet to be finalized.

30. Following a review of the document, the expert mission noted that the document did not fully incorporate all the required elements set out in the Policing Arrangement, in particular with regard to: (a) a detailed statement of the aims and objectives to be achieved in the process; (b) a clear allocation of responsibilities between the Government of Timor-Leste, UNMIT and other stakeholders; (c) clear benchmarks and performance targets; and (d) the identification of the human, material, technical and financial implications of the actions required for the implementation of the plan. Consequently, the document cannot be used as a basis for the reform, restructuring and rebuilding of the national police in its current format and will require substantive changes. Furthermore, various national and international interlocutors expressed their concerns about national ownership of the plan since it had not been prepared with the active participation of local stakeholders.

31. From a substantive perspective, one of the major impediments to UNMIT support of the reform, restructuring and rebuilding of the national police is the limited duration of the Mission's mandate, typically for one year, and the requirement for a much longer period of assistance to ensure the sustainability of achievements. Furthermore, the Interim President of Timor-Leste, the Interim

President of the National Parliament, the Secretary of State for Security, the Prosecutor-General and members of the political parties expressed their concerns to the expert mission about the different policing approaches and standards of the UNMIT police-contributing countries. They noted that this created confusion among personnel of the national police to the extent that the training and advice provided might be contradictory since they were often based on differing doctrinal approaches despite UNMIT police efforts to ensure standardization of approaches through development of structured mentoring guidelines and a policing textbook. They emphasized that reform, restructuring and rebuilding activities should be undertaken by police personnel from fewer Member States, assigned for a longer term in the country and based on detailed standard operating procedures endorsed by the United Nations. In addition, there is a lack of qualified UNMIT police personnel at all levels, including specialists for technical advisory services in support of the national police, such as personnel, budget, finance, procurement, file and assets management, and forensic and information technologies.

Training

32. UNMIT police have provided active support for the training of the national police, including through the deployment of 18 specialists to the national police academy. Provisional certification, middle management courses and an executive development programme have been provided. In addition, specialized courses have been given in the areas of civil disorder, riot control, defensive tactics, close security protection and gender-based violence investigation. More than 1,800 national police officers have been trained by UNMIT since the inception of the Mission. However, many challenges remain due to the limited logistics budget and availability of training facilities.

Registration and certification programme

33. As part of the reform, restructuring and rebuilding process outlined in the Policing Arrangement, UNMIT police carried out a registration and certification programme for national police officers. A number of Timorese leaders, including the Prime Minister, the Secretary of State for Security, the national police General Commander Designate, and rank and file national police officers, expressed their concerns to the expert mission regarding the pace of the certification process. The Policing Arrangement outlined a three-stage process: (a) registration of each existing national police officer; (b) provisional certification for six months (renewable); and (c) final certification upon, inter alia, completion of the training, satisfactory performance of duties and proven respect for human rights.

34. A multidisciplinary and joint national/international screening commission was established in 2006, based on resolution No. 3/2006 of the Council of Ministers. The body ceased functioning de facto during 2007 but was revived in January 2008 pursuant to resolution No. 13/2007. It consists of an evaluation team, a technical team and a secretariat team. The leadership of the implementation structure is unclear, but the final decision on certification relies on the Secretary of State for Security, who acts upon the recommendation of the UNMIT Police Commissioner. The certification programme effectively began when the first existing officer was registered in April 2007. The last officer was registered in December of that year, with a total of 3,108 registered. According to the Policing Arrangement, non-registrants should be removed from the police service, but some former national

police officers who had not been registered continued to be employed by the institution. Of the registrants, only 288 were recommended for final certification as of 22 March 2008. The expert mission found that the certification process, which depends on UNMIT police and the authorities of Timor-Leste, was relatively unsystematic, did not have a clear certification strategy that outlined target numbers over a defined period of time and did not prioritize the certification of commanding officers. It also lacked a defined certification policy outlining the certification process as well as detailed certification criteria and decision-making modalities.

35. A total of 271 officers are still pending a decision pertaining to certification by the evaluation panel. The delays in certifying the remainder of national police officers largely result from the challenges faced in the six-month mentoring programme, the successful completion of which is a precondition for final certification. As the current certification process relies on reaching benchmarks without specific timelines, the authorities are concerned about the lack of a specific strategy with clear timelines for the implementation of the programme. Government officials also expressed some reservations about the mentoring process, upon which the certification process relies, in particular the qualifications of UNMIT personnel deployed in such a capacity and the lack of such advisers at the subdistrict level to support the national police. It should also be emphasized that the Policing Arrangement does not refer to a mentoring process and this initiative, as currently designed, may have unnecessarily delayed the certification programme.

Enabling legislation for implementation of the Policing Arrangement

36. In order to facilitate all processes related to the implementation of the mandate of UNMIT police, the Government has made a commitment under the Policing Arrangement to adopt regulations and other issuances, as may be necessary, to facilitate the effective implementation of the Arrangement. In particular, the registration and certification programme requires legal acts in order to be effective in removing unsuitable officers from the national police. With the exception of the above-mentioned resolutions of the Council of Ministers, most enabling legal instruments have yet to be adopted by the Government of Timor-Leste. As a result, this remains an issue of concern since the implementation of the mandate of UNMIT police has effectively taken place in a legal vacuum.

D. Policing and broader rule of law and security sector reform issues

General observations

37. The activities of the national police and UNMIT police must be understood within the broader rule of law and security sector reform contexts. In this regard, in much of the country, in particular at the district level, there remains an absence of adequate physical, human and institutional capacities, including a stark deficit of competent and independent judges, prosecutors, prison officers and public defenders. The lack of a harmonized legal framework continues to cause confusion, in particular regarding such key legislation as the Penal Code, the Law against Domestic Violence, the Law on Witness Protection and Juvenile Justice Legislation. These factors have resulted in impunity at all levels and a backlog of unresolved cases, compounded by poor cooperation between police and prosecutors and by undue interference in the work of the justice and security institutions. The

prosecution of politically sensitive cases, including the remaining Commission of Inquiry cases (see S/2006/580) remains a significant challenge. Furthermore, there is still a need to undertake a comprehensive review of the future role and needs of the security sector, including the national police and F-FDTL, considering the sector's importance for the long-term stability of the country.

Judicial system

38. There are four district courts, in Dili, Baucau, Suai and Oecussi. In June 2007, 27 justice officials (11 judges, 9 prosecutors and 7 public defenders) were sworn in as the nation's first judges, prosecutors and public defenders, ensuring the full-time deployment of officials to the districts. A second group of 12 Timorese judicial personnel graduated from the judicial training centre at the end of 2007. The courts are now staffed with seven international judges and 11 national judges. The prosecution is currently staffed with four international and nine national prosecutors. As a result, at least one judge, one prosecutor and one public defender is available to administer justice in courts outside Dili. UNDP statistical data from the Dili district indicates that national judges are displaying increased confidence and are resolving a greater number of cases. The prosecution service continues to face serious constraints in its human resources.

39. Although progress continues to be made through the support of the United Nations and donor nations, in terms of increasing the capacity of justice officials and strengthening the justice institutions, the current volatile situation demonstrates that there remains a strong need for continued international support for the justice sector. The 2005 national justice policy, together with the 2006 sectoral investment programme on rights, equality and justice and the UNDP programme on strengthening the justice system in Timor-Leste currently form the basis for future planning and programming of interventions in the sector. However, in the light of the breakdown in law and order during the 2006 crisis, the subsequent findings of the Commission of Inquiry, mounting criticisms of justice reform efforts to date and the Government's strategic 2008 National Priorities document, there appears to be a growing demand for a new process of wider consultation and policy dialogue. As a first step, a systematic capacity assessment of the justice sector would be required.

40. In March 2008 the existing Council of Coordination, composed of the Chief Justice, Minister of Justice and Prosecutor-General, was institutionalized by law as an advisory body within the Ministry of Justice. However, there remains a need for a broader rule of law coordination and consultative mechanism. A working-level, nationally led consultative group, supported by UNMIT, which brings together representatives of the justice and law enforcement institutions, the Office of the Provedor, the Office of the Secretary of State for the Promotion of Equality, UNMIT, United Nations agencies, donors and civil society, is required to ensure wider consultation, policy dialogue and coordinated programming.

41. Although incremental progress has been made in the Prosecution Service primarily through support for the training and appointment of national prosecutors and the establishment of the Superior Council of the Public Prosecution, service delivery remains poor and a matter of concern. Alleged past political interference, staff shortages, the weakness of internal support structures, infrastructure and resources, in particular in the districts, continue to hinder the completion of investigations and prosecutions, contributing to a backlog of cases (approximately

4,700, a significant proportion of which relate to gender-based violence crimes) and a growing problem regarding impunity.

42. A key obstacle to the proper functioning of the criminal justice system, identified by the expert mission, is poor coordination between UNMIT police, the national police and the Prosecution Service. There remain serious differences of view over the applicable laws and procedures for investigation. As a consequence, very few offenders are arrested and only a small number of cases come before the courts for trial. Strengthening the working relationship between police and prosecutors to ensure effective investigations and prosecutions therefore requires particular attention. The expert mission learned that UNMIT, in particular the UNMIT justice sector working group, is well aware of the problem and has initiated steps to address the situation.

43. The checks and balances provided by effective and transparent oversight and accountability mechanisms are essential to combat corruption and improper practices among justice officials. The Superior Council of the Magistracy and the Superior Council of the Public Prosecution should be strengthened in order to exert effective disciplinary control of judges and prosecutors in accordance with international standards.

Prison system

44. As the judicial system becomes more efficient, it will place greater demands upon the prison system, with consequent overcrowding, possible human rights breaches, security concerns and an inability to meet the United Nations minimum standards pertaining to detention. As of 27 March 2008, a total of 152 persons have been detained in the prisons of Timor-Leste. This is a very low ratio of 14 prisoners per 100,000 inhabitants (compared to 124.5 for 100,000 for the Oceania region in 2007), which may be symptomatic of problems in the administration of justice.

45. Overall, the Timorese prison system will have a total capacity of approximately 330 beds by the end of December 2008 in two detention facilities (Becora and Gleno), with a total staff of 130 prison personnel. The construction of a new prison in Baucau is being planned. Weak management and staff capacity, underdeveloped organizational structure and services for prison headquarters, insufficient budget allocation and lack of adequate training for prison personnel are therefore of concern. Court escorts, contingency plans and a coordinated intelligence system with the police are non-existent and mostly function on an ad hoc basis. UNMIT police have recently assigned two liaison officers to Becora prison to improve communication, and a direct radio line has been installed at the national operations centre. However, there is no liaison with the national police in operational contingency planning, which is a crucial part of crisis management.

Security sector reform and the military

46. The expert mission is concerned that the lines between policing and defence responsibilities and activities are not yet clearly defined in practice in Timor-Leste, notwithstanding the existence of specific constitutional provisions to this effect. The programme of the IV Constitutional Government considers strengthening the role of the F-FDTL by taking over, or participating in, some of the national police functions, such as border security. Furthermore, the actions taken by the Joint Command during the state of siege has led some Timorese authorities and members

of the general public to favour such a mechanism. This is of concern to members of the international community and local civil society groups.

47. It is also noteworthy that F-FDTL is looking to scale up its strength significantly. For this purpose, and in the absence of an effective donor coordination mechanism, F-FDTL is undertaking direct negotiations with bilateral donors. Coordination at both national and international levels remains an issue of concern.

48. The Office of the Secretary of State for Security is also in the process of drafting the country's first national security policy. This is a most welcome development, which should be fully supported by national stakeholders and donors and which will help to structure the Government's security strategy. In this regard, it should be noted that the comprehensive review of the future role and needs of the security sector, pursuant to paragraph 4 (e) of Security Council resolution 1704 (2006), has yet to formally take place although the expert mission has been advised that the review was already part of the overall process that would lead to the adoption of a national security policy.

III. Observations and recommendations

49. Much progress has been made towards the restoration and maintenance of public security in Timor-Leste since the events of April/May 2006. However, achievements remain fragile, as illustrated by the 11 February 2008 attacks against the President and the Prime Minister. Law enforcement, within the contexts of the broader rule of law and security sector reform and with due respect for human rights, is a cornerstone for stability in the country and should remain a very high priority for the immediate future. Changes in the attitude and behaviour of national police personnel, in addition to the need to upgrade professionalism and training, are central to the process: the Prime Minister mentioned to the mission that the reform envisaged was primarily one of mentalities. In this context, it should be noted that: (a) the building of an independent, professional and impartial police service is a long-term process; (b) national ownership is a central element in this regard; and (c) there is a need for continued international assistance to national police development for the foreseeable future.

50. Taking into consideration the main concerns and issues set out in section II above, and based on wide consultations with national stakeholders and international partners, the expert mission recommends the key actions set out below.

A. United Nations legislative bodies

Security Council

51. The mission recommends to the Security Council to call upon Member States to contribute human and financial resources for the development of the national police, including through UNMIT, based on the reform, restructuring and rebuilding plan, as adopted by the Government of Timor-Leste.

General Assembly

52. The mission recommends to the General Assembly to approve additional civilian professional posts for UNMIT police, as submitted by the Secretary-General as part of the 2009-2010 budget for UNMIT, in particular in such key areas as programme management, legal affairs and such technical advisory services in support of the national police as personnel, budget, finance, procurement, file and assets management and forensic and information technologies. The posts should be submitted to the General Assembly for its consideration, following a detailed and thorough review of requirements, taking into consideration national expertise and international contributions.

B. Authorities of Timor-Leste

53. The mission recommends to the authorities of Timor-Leste:

National police strategic issues

(a) To develop and adopt in 2008 a reform, restructuring and rebuilding plan for the national police, in consultation with UNMIT and other stakeholders, and to submit the document to the Security Council for its information (see, for example, the Haitian national police reform plan set out in S/2006/726) in order, inter alia, to mobilize international support. The document should take into consideration relevant elements in the draft prepared by UNMIT;

(b) To adopt jointly with UNMIT an addendum to the Policing Arrangement, which sets forth detailed actions, benchmarks and timelines to ensure its full implementation in accordance with relevant Security Council resolutions. The addendum should be based on assessments of the national police and take fully into consideration the overarching Government strategies and policies for the national police and the wider security sector, such as the 2008 Government programme, the Government's strategic national priorities for 2008 and the national security policy being developed;

(c) To adopt such issuances as may be necessary to facilitate the effective implementation of the Policing Arrangement, in particular the registration and certification programme, with the assistance, if needed, of UNMIT or other stakeholders;

(d) To continue its existing efforts to establish a mechanism, taking into consideration existing coordination arrangements, to be chaired by the Secretary of State for Security with the assistance of the Police Commissioner of UNMIT, in his capacity as Interim General Commander of the national police, to direct and coordinate all national and international efforts for the reform, restructuring and rebuilding of the national police. The mechanism should be structured so as to ensure the meaningful involvement of relevant State institutions, UNMIT, the wider United Nations system and bilateral donors to identify areas where international assistance is needed and ensure that there is no overlap in efforts. It should take into account overarching Government strategies and policies for the national police and the wider security sector, such as the programme of the IV Constitutional Government and the national security policy being developed;

(e) To take all necessary policy, legal, technical and administrative measures to ensure that the national police is an impartial service, free from political interference, in particular in operational matters. In this regard, legal and administrative measures should be taken to ensure that the national police has an exclusive and independent responsibility for the conduct of police operations, as well as for the maintenance of good conduct, order and discipline within their ranks, without undue external interference;

(f) To ensure a clear separation of internal and external security roles and responsibilities among the national police and F-FDTL and to ensure that there is no overlap or duplication of reform efforts in relation to both institutions;

(g) To engage in a comprehensive public outreach campaign on the reform, restructuring and rebuilding of the national police, including in the districts;

National police capacity

(h) To undertake, by August 2008, a comprehensive assessment of the short-, intermediate- and long-term financial requirements of the national police and incorporate those findings into all planning processes;

(i) To continue its existing efforts to adopt all necessary issuances in order to facilitate the actual disbursement of funds allocated to the national police and delegate greater financial authority to the General Command as well as to district and local commands;

(j) To continue its existing efforts to review the recruitment procedure for the national police, in particular measures to recruit and retain more women candidates, and review the structure and ranking system;

(k) To transfer the National Central Bureau to the national police and to ensure full access of national police personnel to the organization's secure police communications network and their participation in the international and regional meetings of INTERPOL policing experts;

National police integrity

(l) To continue its existing efforts to ensure the completion of the certification programme, and to ensure that national police officers found responsible for acts of serious misconduct are immediately removed from the national police;

(m) To strengthen and expand the capacities of the professional ethics office, as part of overall managerial issues in relation to integrity of personnel, and ensure the accountability of national police officers involved in acts of misconduct. The office should include a proactive operational capacity to detect and deter such acts and reinforce the importance of accountability and of the observance of human rights;

(n) To ensure the strengthening of external oversight of the national police, including for the prompt prosecution of national police officers who have allegedly committed criminal acts and for facilitating complaints from the public;

Policing and broader rule of law and security sector reform issues

(o) To continue its existing efforts for the reform and strengthening of the Secretariat of State for Security (formerly, the Ministry of the Interior), with support from UNMIT, in accordance with its commitment under the Policing Arrangement;

(p) To undertake a systematic capacity assessment of the justice sector, identifying existing gaps, obstacles and needs, and prepare a capacity development strategy to address capacity deficits in close collaboration with UNMIT and donors. The capacity assessment should involve relevant Government ministries and departments, including the national police, and include civil society organizations;

(q) To prioritize and expedite the harmonization of the legal framework, in particular where there are existing gaps, as mentioned above;

(r) To establish a permanent joint prosecutor service and national police/UNMIT police commission in order to develop and endorse a common understanding of procedural and legislative provisions, clarify investigative powers and responsibilities and, in general, foster technical and professional cooperation;

(s) To establish a national crime database with information by location, gender and age of the victim and with details on the offender and the specific offence;

(t) To establish a police prosecutor liaison office to strengthen police/prosecutor cooperation at the operational level, by connecting police in the districts to prosecutor offices to enable prosecutors to advise district police on investigations;

(u) To prioritize the development and finalization of the strategic plan for the reform of the corrections system as part of a broader and reinvigorated justice reform strategy and ensure adequate budget allocations for the reform, maintenance and sustainability of the prison system in order to prevent further deterioration and weakening of the security system and prevent increased risks of prisoner escapes. Effective liaison between the Prison Department and the national police should be established in all operational planning, including through the development of joint contingency plans, periodic contingency meetings and reviews as well as joint contingency exercises.

C. United Nations Secretariat and the United Nations Integrated Mission in Timor-Leste

Department of Peacekeeping Operations

54. The Mission recommends to the Department of Peacekeeping Operations:

(a) To develop detailed standard operating procedures for United Nations police officers involved in advisory activities in peace operations, including UNMIT, as well as a related training module. This should cover all matters pertaining to the provision of advice to national law enforcement officials, based on United Nations criminal justice and human rights norms and standards, as well as good practices for police operations, management and administration;

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Strategic issues

(b) To actively support, as requested by the Timorese authorities, the Office of the Secretary of State for Security in its efforts to develop a national security policy for Timor-Leste, including the comprehensive review of the future role and needs of the security sector, pursuant to paragraph 10 of Security Council resolution 1802 (2008);

(c) To engage, in close liaison with the Government, in a substantive public outreach campaign on the mandated activities of UNMIT police;

UNMIT police internal arrangements

(d) To expand the existing induction training programme for UNMIT police personnel, taking into consideration the needs identified in this regard in section II above;

(e) To identify lead contingents within UNMIT police to provide technical assistance in specific areas, such as crowd management or administration, in order to ensure a coherence in the training and advisory services provided to the national police;

(f) To assess the current deployment of UNMIT police personnel with a view to ensuring the greatest geographical coverage throughout the territory of Timor-Leste and to ensuring their co-location with national police personnel at all levels;

Support to the national police

(g) To actively engage bilateral and multilateral donors in order to secure funding for projects/programmes aimed at the reform, restructuring and rebuilding of the national police, including building the capacity and capability of the Marine Unit;

(h) To develop, in consultation with the Government, a certification strategy by 1 July 2008 that: (a) outlines the target numbers for final certification of the remaining national police officers in quarterly segments, leading to the closure of the certification process for at least 80 per cent of national police officers by 31 December 2008, based on specific benchmarks and resources to be provided by the Government of Timor-Leste, UNMIT and donors, as appropriate; and (b) prioritizes the certification of commanding officers at headquarters and in the districts and officers performing functions that are crucial to the development of the national police;

(i) To review the existing mentoring process, taking into consideration certification timelines and the need to provide relevant advisory support for the national police at all levels;

(j) To issue a certification policy by 15 July 2008, in consultation with the Government, which outlines the certification process, its decision-making modalities and detailed certification criteria;

(k) To continue its effort in support of training national police personnel with a focus on leadership and managerial positions.

D. United Nations agencies, funds and programmes

55. The mission recommends to the United Nations agencies, funds and programmes to assist UNMIT, within their capacities, in its efforts aimed at the reform, restructuring and rebuilding of the national police. The Office of the United Nations High Commissioner for Human Rights, the United Nations Development Programme and the United Nations Office on Drugs and Crime should second specialists to the police component of UNMIT as part of a United Nations integrated approach in support of the development of the national police.

E. Police-contributing countries

56. The mission recommends to police-contributing countries:

(a) To ensure that personnel deployed have the required profile and skill sets, including training or advisory expertise as requested by the Department of Peacekeeping Operations. As an immediate priority, the deployment of specialists in gap areas, as identified in section II above, should be considered;

(b) To authorize an extension of the deployment of essential police personnel beyond the standard one-year period, in order to ensure that the rotation of officers does not effect ongoing training and advisory efforts;

(c) To enhance the deployment of women police officers, including in senior command positions.

F. Bilateral donors

57. The mission recommends to bilateral donors:

(a) To actively engage with the authorities of Timor-Leste and UNMIT to ensure the effective coordination of funding for projects and programmes aimed at the reform, restructuring and rebuilding of the national police;

(b) To provide assistance for the national police including, inter alia, for transport, communication, maritime equipment and other items, as well as for the refurbishment or construction of facilities;

(c) To enhance donor support for capacity-building of the Timor-Leste judicial and prison systems.

G. Civil society

58. The mission recommends to civil society:

(a) To actively monitor and participate in efforts to reform, restructure and rebuild the national police, including the broader policy areas related to the security sector that have an impact on the national police;

(b) To be proactive in representing the views of each organization's respective constituency in areas related to the national police;

(c) To enhance civic education in relation to policing, in particular in respect of the rights and responsibilities of citizens in this regard.